

***DAIL Advisory Board
December 12, 2013
Comfort Inn, Berlin***

Attendees:

Board Members: Peter Cobb, Linda Berger, Max Barrows, Sarah Launderville, Nancy Breiden, Harriet Goodwin, Steve Pouliot, Diane Novak, Jim Coutts, John Pierce, Beth Stern, Gini Milkey, Robert Borden, Janet Cramer

Guests: Jackie Majoros, Kirsten Murphy, Rich Atkinson, Scott Robbins, Sandy Rouse, Matt McMahon

State Employees: Stuart Schurr, Lisa Parro, Susan Wehry, Megan Tierney-Ward, Lora Nielsen, David Sagi

Minutes from the September 12, 2013 DAIL Advisory Board meeting were approved.
Minutes from the October 10, 2013 DAIL Advisory Board meeting were approved.
Minutes from the November 14, 2013 DAIL Advisory Board meeting were approved with 2 corrections:

Page 2 – “Nancy L stated that she had attended an informational session at Home Share VT...”

Page 3 – Paragraph 2, “These activities help to make a statement as to what White Cane is all about.”

Choices for Care Moderate Needs Update – Megan Tierney-Ward, Adult Services Division, Laney Bruner-Canhoto and Cheryl Cumings, UMMS

Laney and Cheryl from UMMS attended the DAIL Advisory Board meeting in September to discuss with the Board about looking at the possibility of creating additional flexibility in the Choices for Care (CFC) Moderate Needs Group (MNG).

UMMS created a workgroup, which met four times, to brainstorm recommendations for additional flexibility in MNG,. The workgroup included representatives from the adult days, AAA, home health, State Ombudsman, as well as consultants from VT Center for Independent Living (VCIL) and DAIL staff. The workgroup discussed outcomes using tools such as consumer surveys. One more meeting is being scheduled with the workgroup to create a proposal of outcome and procedural recommendations.

The workgroup proposal will also be looking at existing facilities having some flexibility, such as the Adult Days and transportation, as well as flexibility in home health and the AAAs. Earlier this week the Area Agency on Aging (AAA) Directors spoke with the commissioner about this

issue. The funds may provide direct care, which presents an additional cost to providers; however, the intent is to use the majority of funds for services and not administrative costs. All angles are being considered.

UMMS interviewed stakeholders (among them were the Alzheimer's Association, COVE, Transition II, non-medical providers, DAIL Advisory Board members, DAIL staff) and consumers, looked at a number of programs, and inquired about flexible options, and surrogate direct services. Many of the stakeholders, as well as providers, were not supportive of individual budgets or self-direction. Comments indicated that this could negatively impact the current support system as the system may not be viable for programs; and that the participants may not be able to manage their own funds and it could impact the individual's health. UMMS research does not support either of these issues, and found that with appropriate support and education, people are able to self-direct. When talking about flexibility, people are often concerned with the potential abuse of funds; good records need to be kept. A 2013 national self-directed study reported that only about 1/5 of the individuals are interested in taking over their own services (Laney can obtain a copy of this report for the Board.)

UMMS is recommending that DAIL offer flexible funding to the MNG to take full advantage of the system and give individual choice and expand the range of services, which will limit or reduce waiting lists and help to ensure that individual outcomes are met. In order to add anything new or different in MNG, DAIL will need to present a proposal and obtain approval from Legislature for projected savings and use of the CFC reinvestment funds. There are two challenges: to maximize any potential reinvestments, and to prioritize the wait list. There is about 3 million dollars to reinvest for a year and a half – 2nd half of FY2014 (roughly 1 million dollars) and FY2015 (roughly 2 million dollars.)

There are two parts to CFC: Moderate needs and high/highest needs. High/highest needs are individuals who are financially eligible and need a nursing home level of care; however, they may choose the setting they would like, such as family care package, nursing home, home care, etc. Moderate needs was designed for individuals that do not have high/highest needs but have a need for assistance. Individuals qualifying for high/highest needs have their needs met; needs for individuals with moderate needs are limited by funding.

A discussion ensued about the CFC MNG wait list – certain areas of the state do not have the services available for people who are eligible; the wait lists are around funding issues; some areas keep wait lists at a minimum by serving more individuals with fewer services than the level needed; has the department looked down the road – should some funding be dispersed now and some later? The data to determine if individuals' needs are met are not available at this time. This information is not entered into the system; however, the agencies may have some information. The number of hours issued vs. the individuals' need. Laney will follow-up with this.

A suggestion was made to have Linda Martinez from DAIL, Adult Services Division, Money Follows the person program to come back to the Board to give an update on Adult Family Care.

ADA Services and Training – David Sagi, Division of Vocational Rehabilitation

The Rehabilitation Act passed in Congress in 1973. Title II of the Rehab. Act requires the government to comply with the Act. In 1990, the Americans with Disabilities Act (ADA) was signed by President Bush. The ADA requires the private sector to comply as well. The ADA has changed over the last couple of years, adding Title III about employment, and passing a couple of amendments.

There are three parts to the ADA:

- Title I – Employment (reasonable accommodations). Employers with 15 or more employees are required to comply. Reasonable accommodations begin with the interview process, by having accessible advertising for positions and accessible interviews. (Even if there are not 15 employees, the VT Fair Employment Act that was passed in the 1980's mirrors the ADA.)

The intent of the term 'reasonable' means providing accommodations unless it causes a hardship. For example, providing an interpreter could be a hardship for a small business; however, finding an alternative, most effective way to communicate would be required such as exchanging notes, or putting an amplifier on a phone.

- Title II– Program accessibility for state and local government. This mirrors the Rehabilitation Act. Most municipalities have done an evaluation and transition plan. The Department of Justice is starting to review some of the plans for small towns. There is limited Community Block Grant funding available for towns and municipalities who are working to become more accessible.

In 1990, the Vermont Legislature designated 6 million dollars to improve accessibility in State buildings. At that time, David worked with the State Department of Buildings and General Services visiting the state buildings throughout Vermont.

- Title III – Public accommodation law (this was non-existent until the ADA). This created building codes for new buildings and major renovations in buildings. Even if the building or business were in existence prior to 1990, when the ADA passed, the business is still bound by this Title. Businesses that have a hardship or limitations preventing them from providing access still need to provide services in an alternative way, such as bringing food outside to a person who is unable to enter a food establishment.

Recently, DAIL created an ADA Program Manager position, which David has filled. When the Americans with Disabilities Act (ADA) passed, David and Dena Monahan travelled around the state, with a panel of volunteers who had an array of disabilities, doing ADA trainings for State government. David would like to resurrect these trainings for supervisors and managers, as well as assist the private sector in becoming ADA compliant.

When a business is making major renovations or doing new construction, it goes through the Department of Fire Safety for ADA compliance review. If an existing business has some barriers in meeting ADA requirements, there is a board that reviews the situation. David is on this Fire Safety review board.

If a state employee has a disability or becomes disabled and needs an accommodation to do his work, the request goes to the department manager. If the manager does not approve the request, or the accommodation request is over \$500, the request goes to the State of Vermont Human Resource (HR) department for review, and David sits on this review board, as well. Many requests for accommodations are not costly, and some could even benefit an office, such as using a flex work schedule. It is strongly suggested that businesses add a budget item for accommodations.

There continues to be strong support for the ADA in Washington. A regulation to make recreational areas accessible just passed.

David would like to be contacted with any suggestions or needs for trainings, any questions about the ADA, and for consultation on any issues. David will let Stuart Schurr know when trainings are scheduled so the information can be distributed to the Board.

DAIL Advisory Board Operating Procedures – Stuart Schurr, DAIL Deputy Commissioner

DAIL is going through a transitional phase and is aware there has been a delay in getting Board meeting minutes and agendas out to the Board. Moving forward, this is expected to be done in a more reasonable timeframe. The Board requested to receive the agenda and any materials a week prior to the meeting. Having time to formulate and ask questions is an important function of the Board.

DAIL is following the open meeting laws by notifying the Department of Public Libraries of the monthly meeting dates. The Department of Libraries does not post agendas; however, DAIL will indicate on its website that an agenda is available upon request. Meeting minutes are available within 5 days of the meeting; however, these notes will not be finalized or approved.

Agenda items are discussed with the Board at the beginning of the year; however, as things arise, flexibility is important. The draft of the monthly agenda is sent to the Board chair for confirmation prior to publication. Board members should let Janet know (and copy Stuart) by the Thursday prior to the meeting, if they have any input for the agenda.

The Board is comfortable having non-Board members speak during discussions, with the moderator having the ability to oversee time management. Non-Board member involvement in a discussion is beneficial. The top of each month's agenda should include a statement that public comments are welcome.

Having subcategories of the items for the Commissioner's updates would be helpful. In the past, the Commissioner's updates were sent out in writing ahead of time, which enabled the Board members to think about the items and be prepared to discuss them at the meeting.

There was a short discussion about how subcommittees of the Board are established. The APS subcommittee was created, before the APS litigation, as a forum to look at the APS program, to discuss items which the full Board did not have time to discuss and to report back to the Board with any information. During the APS litigation, the subcommittee was a place in which the Department could obtain input. When the litigation ended, there were questions about whether the subcommittee should continue; however, it is included as part of the settlement as to where the independent review panel will report and therefore, the subcommittee will be continuing. Other subcommittees of the Board may be created to manage issues that require longer discussions.

Commissioner Wehry's Updates

Budget/Budget Adjustment

Budgets are projected on what the Department feels it will need. If it ends up differently, then the Department needs to go to budget adjustment (BAA) to request to have the funds moved. Commissioner Wehry recently testified before the House Appropriations Committee on budget adjustment for FY14. Her testimony was sent to the DAIL Advisory Board, and it has been posted on the DAIL website.

The language in the "Big Bill" states if there are any savings, the Department cannot spend these funds until a plan is submitted and it is approved by the Legislature. In the event of an emergency, the Department can go before the Joint Fiscal Committee and request permission to use funds. DAIL went before the Joint Fiscal Committee and requested permission to use funds for the nutrition program, which was granted, and \$170,000 has been sent out to the Area Agencies on Aging using a funding formula. For the next Board meeting, the Commissioner will obtain information about the use of these funds and the new grant program Mary Woodruff is overseeing.

At the end of the legislative session, legislators inquired if the Department would consider investing \$50,000 into the final transition funding for Housing Assistance Services (HASS)/SASH. (SASH is a federally-funded program, funded through December 2014.) The Commissioner has requested \$50,000 for the remaining part of FY14, and \$50,000 for the first half of FY15 in BAA.

The Department is asking partners and the Legislature to focus reinvestment funds on MNG. The Commissioner would appreciate a letter from the DAIL Advisory Board to support the Department's decision to use the Choices for Care reinvestment funds for the Moderate Needs Group. Jim made a motion to send a letter to support and endorse the department's decision for the moderate needs funding. Harriet seconded the motion. Discussion pursued. The Board passed the motion with 2 abstentions.

The Commissioner would also appreciate a letter of support from the DAIL Advisory Board to support the department's decision to reserve approximately \$2 Million , approximately 1%, of the Choices for Care funds, for "risk mitigation." If the funds are not necessary in FY14, the funds will stay in Choices for Care for FY15. Robert made a motion to support and endorse the Commissioner's request to reserve 1% of the budget. Harriet seconded. Motion passed, with 3 abstentions and 1 no.

The FY15 budget is still under development. The commissioners have been asked to do a level funding exercise. The Governor's budget address is scheduled for January 15th.

SIM

State Innovation Model (SIM) has been changed into the Vermont Health Care Integration Project (VHCIP). The Duals project has been merged into VHCIP. DAIL has a representative on the health care reform workgroups, and the Commissioner is on the VHCIP workgroup. Progress is being made on raising awareness of long term services and supports (LTSS). A pay for performance/bundled payment package has not yet been launched.

Direct Care Workers

Things are gearing up for the negotiations for Direct Care Workers.

Division Updates

DLP has a new director, Clayton Clark. Clayton used to work for Vocational Rehabilitation, and prior to that he worked for the Statewide Veterans Affairs program. This is the first time that DLP has had a director who is not a nurse; however, everything is coming together in a unified way. Currently, all positions in DLP are filled; however, there are some upcoming retirements in the next year.

The APS Review Panel has met three times for the first review. The Panel will submit a report to the APS Subcommittee in January. It was suggested that the subcommittee report back to the Board at the February meeting. Once the report is submitted to the subcommittee, it becomes a public document. Prior to that time, it is uncertain if this information is public. The Commissioner will research this .

Developmental Disabilities Services Division is currently working on the tri-annual review of the State System of Care Plan.

Each developmental services agency has been given a budget reduction target. Letters have been sent to the developmental services directors asking for their funding plans, with limited impact on individual services. These plans are due tomorrow. There are some concerns about the larger agencies absorbing these cuts while smaller agencies may have to make direct cuts to services. This is something that the Commissioner will be cognizant of when reviewing the budget plans that are returned.

The Developmental Services “Futures” group continues to meet. At Monday’s meeting the group will be looking at the vision and dream for DS services. Two suggestions came out of the summer workgroup: exploring upfront investments in technology and the ability for individuals with a greater capacity for independence to move into their own apartments. However, there currently is no housing available.

Will Rowe is working on health care and dementia. The Commissioner will report back on this at the next meeting after she obtains further information.

Board Updates

The Vermont Center for Independent Living is having an open house tonight from 4:00 – 6:00.

Two months ago, Max did a presentation for the Youth Congress Convention in Montpelier about respectful language and the “r” word. The Convention was about putting an end to bullying.

Max presented with a couple other advocates at UVM for two events: for medical students/future doctors about how to interact and make things accessible for people with disabilities, bringing forth the civil health model towards the medical model; and for future teachers about how to interact and communicate effectively with people with disabilities as well as facilitated communication and listening skills.

There was a short moment of silence for Nelson Mandela.

Janet Cramer, Board Chair, asked Stuart to draft the two letters of support for the Commissioner for review. *(Note: After further discussion after the meeting adjourned, Janet decided to draft these letters as it may be a conflict of interest for Stuart.)*

There are 3 vacancies on the DAIL Advisory Board; 1 that is for a former plaintiff to the APS litigation, and two that represent persons with a disability. If anyone is aware of someone to fill these vacancies, please forward the names to Stuart Schurr and Lisa Parro.

Meeting adjourned 1:53

